

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA


PHILLIP J. GREENE,	)	No. C 08-0714 MMC (PR)
	)	
Petitioner,	)	<b>ORDER DENYING DUPLICATE</b>
	)	<b>MOTION TO FILE SECOND</b>
v.	)	<b>PETITION</b>
	)	
HARTLEY, Warden,	)	<b>(Docket No. 7)</b>
	)	
Respondent.	)	

On January 30, 2008, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Included with the petition was a "Motion to File Newly Exhausted Claim Via Second Petition – Abuse of Discretion by Sentencing Court." In said motion, petitioner explained that he was seeking leave to proceed with a second petition pursuant to 28 U.S.C. § 2244(b), which petition contained a single newly-exhausted claim of sentencing error arising from petitioner's 2003 conviction in Santa Clara County Superior Court. On February 8, 2008, the Court denied petitioner's motion and dismissed the petition because petitioner's earlier-filed petition challenging the same 2003 conviction is still pending in this court. (See Greene v. Powers, No. C 05-3433 MMC (PR).) The Court informed petitioner that if he wished to proceed with his newly-exhausted claim he must file a motion seeking leave to amend the earlier-filed petition. On February 11, 2008, petitioner filed in the instant action an identical copy of the previously-filed motion to file a second petition. As the motion is duplicative and has already been ruled on by the Court, the motion is hereby DENIED as moot.

This order terminates Docket No. 7.

IT IS SO ORDERED.

DATED: May 2, 2008

  
MAXINE M. CHESNEY  
United States District Judge